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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,448	10/24/2003	Robert C. Bohannon	018877-000122US	2899
20350	7590	09/26/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			CANELLA, KAREN A	
			ART UNIT	PAPER NUMBER
			1643	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,448

Applicant(s)

BOHANNON, ROBERT C.

Examiner

Karen A. Canella

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1, 4-6, 9 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1, 4-6, 9 and 12-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claims 1, 4, 6, 9, 14 and 15 have been amended. Claims 2, 3, 5, 7, 8, 10, 11 and 16-20 have been canceled. Claims 1, 4-6, 9 and 12-15 are examined on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 4-6, 9 and 12-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The factors considered when determining if the disclosure satisfies the enablement requirement and whether any necessary experimentation is undue include, but are not limited to: 1) nature of the invention, 2) state of the prior art, 3) relative skill of those in the art, 4) level of predictability in the art, 5) existence of working examples, 6) breadth of claims, 7) amount of direction or guidance by the inventor, and 8) quantity of experimentation needed to make or use the invention. In re wands, 858 F.2d 731, 737.8 USPQ2d 1400, 1404 (Fed. Cir. 1988).

The instant claims are drawn to a method for suppressing or reducing the physiological effects caused by an anti-neoplastic drug, and a method for reducing the toxicity of an antineoplastic compound, both methods comprising administering prior to the administration of said drug, a drug-conjugate immunogen to elicit in the recipient, the production of anti-drug antibodies.

The instant claims require the administration of the drug conjugated immunogen prior to the administration of the anti-neoplastic drug. One of skill in the art would administer anti-neoplastic drugs to patients having cancer. thus, the instant claims require the development of humoral immunity against the anti-neoplastic compound. The art corroborates the fact that B cells recognize the hapten apart from the carrier, in the case the anti-neoplastic compound, rather

Art Unit: 1643

than the hapten in the context of a protein carrier (Roitt et al, Immunology (text) 1998, page 142, second column, lines 11-12). It is reasonable to conclude that cancer patients subjected to the instant methods would have humoral immunity to the same anti-neoplastic compounds. The art teaches that it is routine and necessary to administer multiple rounds of cancer treatments in order to cause disease regression or stabilization. Schlom ('Monoclonal Antibodies: They're More and Less Than You Think', In: Molecular Foundations of Oncology, 1991, Broder, Ed., page 98, second column, second full paragraph) teaches that in the case of an administered murine antibody, the patient develops antibodies against the administered antibody and that by the third dose, the anti-HAMA antibodies of the patient prevented the administered antibody from reaching the targeted site. In the instant case, administration of the anti-neoplastic compound to the cancer patient previously immunized by the instant method claims, would result in a vast decrease dose of anti-neoplastic compound that would persist for enough half life as a free anti-neoplastic compound to exert an efficacious effect against the cancer because the elicited antibodies would bind to the anti-neoplastic compound and it is well-known in the art that antibody complexes are cleared from the blood stream. The specification does not address how to provide a pre-existing humoral immune response against the anti-neoplastic compound, wherein said humoral immune response would not interfere with the desired anti-neoplastic effect of said compound. One of skill in the art would be subject to undue experimentation without reasonable expectation of success in order to use the claimed method with an efficacious result.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Canella whose telephone number is (571)272-0828. The examiner can normally be reached on 10-6:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on (571)272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Karen A. Canella, Ph.D.

9/6/2006


KARENA CANELLA PH.D
PRIMARY EXAMINER